

REMARKS

Claims 1 - 15 remain active in this application. Claim 6 has been amended to improve syntax by relocating a phrase thereof. No new matter has been introduced into the application.

Claims 1 - 2, 6 - 8 and 15 have again been rejected under 35 U.S.C. §102 as being anticipated by Carter et al. Claims 3 - 5 have again been rejected under 35 U.S.C. §103 as being unpatentable over Carter et al in view of Welles, II, et al. Claims 9 - 10 and 13 - 14 have again been rejected under 35 U.S.C. §103 as being unpatentable over Carter et al. in view of Stewart. Claim 11 has again been rejected under 35 U.S.C. §103 as being unpatentable over Carter et al. in view of Stewart and Ralieggh et al. Claim 12 has again been rejected under 35 U.S.C. §103 as being unpatentable over Carter et al. in view of Stewart and Gamlyn et al. All five of these grounds of rejection are respectfully traversed for the reasons of record which are hereby fully incorporated by reference and the additional remarks provided below and, particularly, as being moot in view of the concurrently filed Declaration un 37 C.F.R. §1.131.

It has been previously pointed out in detail that the claim recitations are clearly not answered by Carter et al. including location tracking modules 49A, location tracking devices 49B and chirpers 49C because, *inter alia*, the tracking devices 49B communicate with the location tracking modules 49A which, while possibly co-located with network wireless access points, are not, in fact, part of the network or the wireless access points and location tracking information is collected by a dedicated location tracking server from which location information is made available to the network and that the deficiencies of Carter et al. are not mitigated by the teachings or suggestions of

Welles, II, et al., Stewart, Ralieggh et al. and/or Gamlyn. The remarks appended to the previous response appear to have been at least partially persuasive in this regard since, in the Advisory Action of February 2, 2002, the Examiner now asserts that the subject matter of independent claims 1 and 6 is answered by the patient worn remote transceivers 34A as well as location tracking devices 49B, as previously asserted. However, it is respectfully called to the Examiner's attention that the patient worn remote transceivers 34A are among the group of real-time WLAN devices 34 used for time-critical applications and which must be capable of continuous transmission to the network for which special multi-band access points using special communication protocols and a separate frequency band (column 4, lines 50 - 64, which may be standardized *but not for use as wireless communication links of a computer network*) must be provided (column 4, lines 18 - 32). Separate monitoring stations 38 are also disclosed to be used for real-time information including that from the transceivers 34A in Carter et al. (see column 3, line 66, to column 4, line 18). Therefore, it is respectfully submitted that the patient worn transceivers are not transponders and do not communicate with access points of a standard network using standard wireless protocols as recited in the claims. In other words patient worn transceiver devices 34A fail to answer the recitations of the claims for much the same reasons that location tracking devices 49B fail to answer the recitations of the claims.

Accordingly, it is respectfully submitted that Carter et al. does not teach or suggest and the Examiner has not properly addressed the most basic concept of the invention: to leverage an existing wireless network infrastructure to perform location tracking and reporting. Even if the Examiner is now

suggesting that some hybrid of location tracking devices 49B and the patient worn transceivers might be obvious within the level of ordinary skill in the art evidenced by Carter et al. It is respectfully submitted that the concept of such a modification can only be reached through impermissible hindsight in light of the present disclosure, particularly since both the location tracking arrangement and the real-time communication system of Carter et al. are merely superimposed on the wireless network using different, specialized access points or special purpose location tracking modules while operating autonomously therefrom rather than *fully integrated* therewith using standard wireless access points and standard protocols for communication with the transponders and collecting location data directly in the *network servers*. Therefore, it is again respectfully submitted that the asserted grounds of rejection remain in error and are untenable and reconsideration and withdrawal thereof are respectfully requested.

While it remains Applicants' position that the claimed subject matter is patentably distinguishable from Carter et al. and other references applied against the claims as previously demonstrated and that the Examiner has not properly addressed even the most basic concepts of the invention, much less made a *prima facie* demonstration of anticipation or obviousness of any claim in the application, it is also respectfully submitted that Carter et al is not an effective and competent reference against the present invention by reason of prior invention by Applicants. In this regard, a Declaration of William O. Moody and Eric R. Steinbrecher under 37 C.F.R. §1.131 is concurrently filed with this Amendment. As indicated therein, the Declaration and the attached exhibits show conception of the invention, completion of the invention and actual reduction to practice including successful tests

and demonstration of the invention prior to the filing date of Carter et al.

More specifically, the exhibits provide evidence of prior invention by the inventors herein of the claimed subject matter of the independent claims at least as follows:

1. A transponder (Exhibit A, page 4)

including

means for associating said transponder with a device (Exhibit A, pages 5 - 7; Exhibit B, page 2; Exhibit E, page 1, line 3; Exhibit F, page 2, last paragraph)

means for associating said transponder with respective wireless access points of a standard data network (Exhibit A, page 4; Exhibit E, instruction 3; Exhibit F,),

means for receiving an interrogation signal (Exhibit A, page 4; Exhibit F, paragraph bridging pages 1 - 2 and following paragraph), and

means for transmitting a signal in accordance with a wireless network protocol (Exhibit F, page 2, first full paragraph) that can be received by an access point of said standard data network (Exhibit F, paragraph bridging pages 1 - 2: "...capable of responding to the communications signals of the wireless LAN") and interpreted by an access point of said standard data network as identification information (Exhibit A, pages 10 and 12; Exhibit B, page 2; Exhibit F, page 2, last paragraph).

and

6. An asset tracking system (Exhibit A; Exhibit B; Exhibit E; Exhibit F) including

a computer network supporting a plurality of wireless links from respective

wireless access points of said computer network (Exhibit A, Page 4; Exhibit B, page 2, second full paragraph; Exhibit E, instructions 1 and 3; Exhibit F, "solution", pages 1 - 2, "abstract", page 4),

a transponder detectable by said wireless access points of said computer network (Exhibit F, pages 2, first and second full paragraphs: i.e. "visible mobile units and/or tags"), said transponder including means for transmitting identification information corresponding to said transponder (Exhibit F, page 2, last paragraph) in accordance with a wireless network protocol (Exhibit F, page 2, first full paragraph, page 3, fourth full paragraph and "abstract", page 4), and

means for accessing and reporting internal network access point information in association with said identification information (Exhibit A, esp. Page 4; Exhibit E, esp. instructions 1, 3 and 4; Exhibit F, page 2, third and fourth full paragraphs and "abstract", page 4).

Prior invention of the subject matter of dependent claims 2 - 5 and 15 is supported at least by Exhibit F, page 3, fourth full paragraph, or (in regard to claim 15) Exhibit F, paragraph bridging pages 1 - 2 and the addition of techniques of asset location estimation of claims 7 - 14 are supported by the techniques described in Exhibit F, page 2, third full paragraph, including reference to "statistical or intelligent algorithms".

Exhibits C and D, while not relied upon for any information regarding technical features of the invention, are included since the (deleted) reference to a year in the project number is the same year as the reference to a year deleted in the titles of Exhibits A

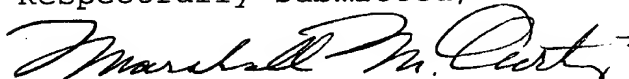
and B. As indicated in the Declaration under 37 C.F.R. §1.131, all of the documents, copies of which are submitted as Exhibits A - F, were created in the United States and reflect activities occurring in the United States. The creation of all of the documents to which Exhibits A - F correspond and the activities they represent occurred prior to July 13, 2000, the filing date of Carter et al., relied upon in all grounds of rejection currently of record. Since the declaration and its attached Exhibits A - F clearly demonstrate conception and actual reduction to practice of the subject matter of the invention prior to the filing date of Carter et al. and since Carter et al. does not claim the same invention as claimed herein it is respectfully submitted that prior invention of the claimed subject matter herein by the inventors should be accorded and the Carter et al. reference withdrawn. Since Carter et al. is relied upon in all stated current grounds of rejection, it follows that the current grounds of rejection should be withdrawn, as well. Accordingly, reconsideration and withdrawal of all grounds of rejection of record is respectfully requested.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and

credit any overpayment of fees to Attorney's Deposit
Account No. 50-2041.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Marshall M. Curtis".

Marshall M. Curtis
Reg. No. 33,138

Whitham, Curtis & Christofferson, P. C.
11491 Sunset Hills Road, Suite 340
Reston, Virginia 20190

(703) 787-9400
Customer Number: **30743**